

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN DAVE LEWIS**, on February 14, 2001 at 8:00 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Edith Clark (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: Senior and Long-Term Care
Division, Human and Community
Services Division

DISCUSSION AND EXECUTIVE ACTION ON SENIOR AND LONG-TERM CARE DIVISION

PRESENT LAW ASJUSTMENTS MEDICAID SERVICES:

{Tape : 1; Side : A; Approx. Time Counter : 1.1-4.0}

Lois Steinbeck, Legislative Fiscal Division (LFD), handed out the decision package spreadsheet **EXHIBIT(jhh37a01)**.

{Tape : 1; Side : A; Approx. Time Counter : 4.0-6.7}

Mike Hanshew, Administrator of Senior and Long-Term Care

Division, went over his division's revised Medicaid projections. In FY02, the general fund impact will be reduced from the \$988,848 in the Martz budget to \$862,779, reflecting a \$500,000 total fund decrease in projected expenditures. This rolls forward into FY03, where there is a reduction of about \$120,000 as well. Included in these projections is the cost of the pre-admission screening contract. Broken out in operations costs, it is about \$356,000. This is funded 75/25 and will save an additional \$7,000 in general fund. The total expenditures will remain the same, but there will be a shift toward the federal funds because there is a better match rate for that contract than for services. There is generally a reduction in the authorized hours per person, not in caseload.

{Tape : 1; Side : A; Approx. Time Counter : 6.7-7.9}

In response to **SEN. COBB**, **Mr. Hanshew** explained that the general fund savings was \$120,000 which was assumed in the new Medicaid projections that resulted in the adjusted supplemental numbers. The decrease offsets some of the increases that occurred in other Medicaid programs in other divisions.

{Tape : 1; Side : A; Approx. Time Counter : 9.6-14.8}

Mr. Hanshew made further explanation of total Division expenditures and projections for FY01 through FY03. The projections are down from historic growth rates due to the pre-admission screening contract. The Division will spend 5% more than it is projected to spend in FY02 and again in FY03. The two things that drive expenditures are more people or more services per person. The Division is saying that it will provide 5% more units of service than in the previous year.

{Tape : 1; Side : A; Approx. Time Counter : 14.8-15.2}

Motion/Vote: **SEN. COBB** moved **DP 34, HOME-BASED CASELOAD, ADJUSTED TO \$862,779 FY02 AND \$1,124,262 FY03. Motion carried unanimously.**

{Tape : 1; Side : A; Approx. Time Counter : 15.2-15.7}

Motion/Vote: **REP. CLARK** moved **THE BASE LEVEL OF FUNDING PLUS STATEWIDE PRESENT LAW ADJUSTMENTS TO INCLUDE VACANCY SAVINGS IN PROGRAM 22 - MEDICAID SERVICES. Motion carried unanimously.**

{Tape : 1; Side : A; Approx. Time Counter : 15.7-19.7}

Ms. Steinbeck directed the Committee to the final sheet of Exhibit 1 and explained the LFD issue regarding the projection of nursing home caseloads and present law costs without provider rate increases for the FY02 and FY03 biennium. The Executive request represents the total cost of the updated nursing home caseload budgets recently completed, and the LFD staff estimate

does not change from its original analysis. Neither of these estimates anticipates discontinuation of Certificate of Need (CON). It takes only \$100,000 in Medicaid increased expenditures to offset the cost of CON. If CON is not returned, then **Ms. Steinbeck** would like to revisit these numbers. The estimates prepared by LFD staff are \$500,000 general fund lower over the biennium than the Executive Budget. LFD projected a continuing reduction in the number of bed days.

{Tape : 1; Side : A; Approx. Time Counter : 19.7-20.5}

SEN. KEENAN stated that the CON bill is currently tabled in Senate Public Health.

{Tape : 1; Side : A; Approx. Time Counter : 20.5-22.4}

SEN. WATERMAN asked if funding for the existing CON program is not in the budget. **Ms. Steinbeck** explained that it had been added in Program 7 and that **SEN. COBB** suggested \$23,000 per year, and that he would do an amendment to take it out somewhere else. **SEN. WATERMAN** also expressed concerns over continuing to project that nursing home bed days will continue to decrease. She is certain that the numbers will go back up, and is concerned that there is a shortage of Alzheimer's beds. She asked if there were higher rates for the special care units.

{Tape : 1; Side : A; Approx. Time Counter : 22.9-25.4}

Mr. Hanshaw responded that the issue is capacity, which may be indirectly related to rates. There is not a different rate for a special care unit, but since those people have higher care needs the facility would get a little more money in their aggregate rate. There is great demand for the special care units even when other beds are empty.

{Tape : 1; Side : A; Approx. Time Counter : 25.4-26.7}

In continued discussion, **SEN. WATERMAN** recommended that the Committee accept the Department's estimate of Medicaid need funding for beds. **CHAIRMAN LEWIS** commented that he was inclined to accept the LFD maintenance projection. It was determined that the current proposal was based on past rates of decline in occupancy rates. The past rate had been 2-3% a year, but that LFD staff had used 0.5% per year over the 2003 biennium.

{Tape : 4; Side : A; Approx. Time Counter : 27.8-28.4}

Motion: **SEN. COBB** moved **THE EXECUTIVE NURSING HOME ESTIMATES LESS \$250,000 GENERAL FUND AND APPROPRIATE FEDERAL MATCHING FUND OVER THE BIENNIUM.**

Discussion: **Ms. Steinbeck** said that she would cut the rate of reduction in half and play with it until she was within \$250,000

difference of the Executive or she would consult with Mike Hanshew, and he could tell her if he would like most of it in the first year or second year.

{Tape : 1; Side : A; Approx. Time Counter : 28.4-31.7}

Mr. Hanshew asked if projections exceed the appropriation does he assume that it goes into a supplemental or does he take actions based on reducing rate increases to live within the budget? **SEN. COBB** said that reductions should be made since there are not supposed to be supplementals. **Mr. Hanshew** said that sometimes by the time overruns are known, the rate increases have been allocated. If the LFD is wrong about its estimates, the Division would have to take money out of the rate increase in the second year and use it to fund the base.

{Tape : 1; Side : A; Approx. Time Counter : 31.7-35.1}

SEN. WATERMAN said that she cannot vote for anything that has a contingency that rates to nursing homes will be cut. Nursing homes are struggling to survive, and the demographics indicate that nursing home occupancy will turn around and start to rise. Continuing to predict decreases is something she will not support. **SEN. COBB** said that he does not think that \$225,000 out of a \$100 million budget will break the budget. **CHAIRMAN LEWIS** said that if the budget gets in trouble, there should be language that indicates that rates will have to be tightened up.

{Tape : 1; Side : A; Approx. Time Counter : 35.1-38.1}

Ms. Steinbeck commented that she is reviewing language the Department would like the Committee to consider that no rate increases will be granted in the first six months of the biennium until the Budget Office certifies by Medicaid service type that there will not be a cost overrun. The Department's position, through the language, is that the rate increases within a division will not be funded if that division is projected to enter a supplemental. **Ms. Steinbeck** expressed concerns about the legality of such a move, since the statute states that if a supplemental is incurred, all non-mandatory expenditures must be reduced.

{Tape : 1; Side : A; Approx. Time Counter : 38.1}

Director Gray went over the Department's intention with the language. It was hoped that divisions that live within their budgets would not be impacted by those that do not; and that it would not have a consequent effect on their providers. It was an effort to break out the provider rates by service option.

{Tape : 1; Side : A; Approx. Time Counter : 40}

SEN. WATERMAN asked how Mental Health Services implements a 25% rate increase for psychiatrists when their budget is in a

supplemental. **Ms. Steinbeck** remarked that this was the LFD issue and reiterated the explanation of the statute. There was continued discussion of the issue in regard to the supplemental.

{Tape : 1; Side : A; Approx. Time Counter : 44.3-45}

Director Gray added that in her presentation of the mitigation plan for the supplemental, she did ask for the priorities that needed cutting.

{Tape : 1; Side : A; Approx. Time Counter : 45-51}

Bob Andersen, Office of Budget and Program Planning (OBPP), commented that in the February 12 letter from **Director Swysgood EXHIBIT (jhh37a02)**, there were two proposed pieces of contingency language about Medicaid and provider rates. All provider rates would be at risk if there were a supplemental.

{Tape : 1; Side : B; Approx. Time Counter : 0.1-5}

SEN. WATERMAN expressed concerns over the waiting list. Elderly people quickly run out of assets, and then the only option is to go into a nursing home.

Discussion: In further discussion, **SEN. COBB** explained to **REP. JAYNE** that his motion was based on the difference between the two projection models. The difference is \$500,000 he decided to split the difference. This is the best guess that the two agencies have, and neither is probably correct, but there needs to be some kind of projection going two years ahead. Both projections could be low and both could be high.

{Tape : 1; Side : B; Approx. Time Counter : 5-7.5}

Mr. Hanshew explained some more on how his projections were estimated. It could be high; it could be low. He would like to know how the interplay between his division and the rest of the budget will work. **SEN. WATERMAN** said that a good way to resolve the issue would be to put more money into assisted care. **REP. JAYNE** asked how **SEN. COBB's** proposal would impact the budget. It was explained that it would decrease the increase.

{Tape : 1; Side : B; Approx. Time Counter : 7.5-9.2}

Director Gray asked if the Department had underestimated and if it did not receive adequate amounts in the intergovernmental transfer whether it was to cut provider rates rather than seek a supplemental. **CHAIRMAN LEWIS** said that the Committee would vote on the issue in wrap up. **SEN. WATERMAN** said that before it was voted on she wanted sometime to explain how it would effect the implementation of the rate increases. If this language were adopted, it guarantees that the second year's rate increase could not occur until the end of the biennium.

{Tape : 1; Side : B; Approx. Time Counter : 9.2-9.9}

SEN. COBB commented that he does not like the language so far proposed. If the Department runs out of money, it should cut back. It is assumed that the budget is balanced and if things get out of hand, action must be taken.

{Tape : 1; Side : B; Approx. Time Counter : 9.9-12.1}

Mr. Hanshew interjected his comments that since it is a small amount and a relatively low rate increase, the first rate increase could be given, and then they could watch the caseload, and then the second year, rates could be based on the new information.

{Tape : 1; Side : B; Approx. Time Counter : 12.1-13.0}

CHAIRMAN LEWIS called for a roll call vote on **SEN. COBB's** motion on DP 36. He had **SEN. KEENAN's** proxy.

Vote: Motion passed 4-2 with Jayne and Waterman voting no.

{Tape : 1; Side : B; Approx. Time Counter : 13-15.6}

The LFD issue related to DP 148 is the expansion of the community-based services waiver above the level anticipated by the 1999 Legislature. It is one of several areas where Medicaid was expanded in a discretionary area during the 1999 biennium above the level anticipated by the Legislature. The program still did revert funds and manage within its budget, but the waiver expansion is above the level appropriated. When this happens the present law annualization that will be faced in the next biennium is greater than anticipated. In the new proposals, the Committee will see that the annualized cost is different than the amount the Committee will vote on in the second year of the biennium. Part of the increase was due to the expansion in the amount given to direct care workers.

{Tape : 1; Side : B; Approx. Time Counter : 15.6-17.7}

Mr. Hanshew explained that \$500,000 total fund savings in home health was used to create 28 waiver slots to take people out of nursing homes. This was done, in part, to get ahead of the Olmstead issue, and also to reduce nursing home expenditures.

{Tape : 1; Side : B; Approx. Time Counter : 17.7-18.8}

Motion: **SEN. COBB** moved DP 37, WAIVER CASELOAD PLA.

Discussion: **SEN. WATERMAN** remarked that this is the sort of flexibility and management she would like to see in all divisions of the Department. The Legislature needs to take care that it does not micro-manage to the extent that it prevents flexibility and creativity in managing resources.

{Tape : 1; Side : B; Approx. Time Counter : 18.8-19.4}

Vote: Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 19.4-23.3}

Ms. Steinbeck explained DP 148, the federal Medicaid reimbursement for Eastmont and Montana Chemical Dependency Center (MCDC). The Medicaid caseload estimates in this item changed, and the total adjustment needs to be \$11.2 million FY02 and \$11.5 million FY03.

{Tape : 1; Side : B; Approx. Time Counter : 23.3}

Motion/Vote: SEN. COBB moved TO ADOPT DP 148, INSTITUTIONS PLA BASED ON FINAL DETERMINATION OF NUMBERS BY LFD STAFF. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 24.3}

Motion/Vote: SEN. COBB moved DP 198, SABHRS ADJUSTMENT WITH DIRECTION TO LFD STAFF TO ALLOCATE CHANGES MADE BY DP 198 AMONG NURSING HOMES, HOME-BASED CASELOADS, AND INSTITUTIONAL REIMBURSEMENT. Motion carried unanimously.

NEW PROPOSALS - MEDICAID SERVICES:

Mr. Hanshew commented that the effect of the action in DP 34 will actually reduce the general fund cost of DP 120. The intent is to give direct care workers in the Medicaid program slightly larger increases.

{Tape : 1; Side : B; Approx. Time Counter : 33.1-33.6}

Motion/Vote: SEN. COBB moved DP 120, PERSONAL ASSISTANCE DIRECT CARE WAGE INCREASE. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 33.6-37.8}

SEN. COBB went over the language written by **Mr. Hanshew** which says that the money will be distributed to lowest wages first, in the event that cuts will be made, this is the last thing to be cut **EXHIBIT(jhh37a03)**. **Ms. Steinbeck** will work with **Mr. Petesch** to preserve the intent of language; it was agreed to wait on the language.

{Tape : 1; Side : B; Approx. Time Counter : 37.8}

Motion/Vote: SEN. COBB moved TO INCREASE THE AMOUNT FOR DP 120, DIRECT CARE WAGE INCREASES BY \$100,000 GENERAL FUND EACH YEAR OF THE BIENNIUM WITH CORRESPONDING FEDERAL MATCH INCREASED.

Discussion: **Mr. Hanshew** said that it would be a 4% raise, which equates to \$.25 for \$6.00. The higher raise would be given in the first year, which would carry forward into the second year, allowing a little more the second year.

{Tape : 1; Side : B; Approx. Time Counter : 42.6}

CHAIRMAN LEWIS called for a roll call vote.

Vote: Motion carried 6-0.

{Tape : 1; Side : B; Approx. Time Counter : 46-49.7}

SEN. KEENAN asked what kind of nursing homes those in Browning and Crow Agency are and expressed interest in TANF money being used to encourage training at the facilities. **Mr. Hanshew** answered that they are nursing homes operated by tribal governments. Tribal funds could be used for federal match, and the Department has written HCFA to find out if their rates could be increased in similar fashion through an intergovernmental transfer of tribal funds.

{Tape : 2; Side : A; Approx. Time Counter : 0.3-.9}

Motion/Vote: **SEN. COBB** moved TO ADOPT DP 121, NURSING HOME RATE STABILIZATION AT 4.5%. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 0.9-1.7}

Mr. Hanshew explained that DP 129 was a 1.5% increase for home health, hospice, and the waiver. There is a corresponding piece of the package in Aging Services that is a 1% increase. The Aging Services rate increase is where the Division took one of the Governor Martz cuts.

{Tape : 2; Side : A; Approx. Time Counter : 1.7-2}

Motion/Vote: **SEN. COBB** moved DP 129, PROVIDER RATE INCREASES. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 2-3.1}

Ms. Steinbeck explained that DP 140 is the waiver expansion. There is a reduction of 25 persons served. When this is approved the annualized cost expansion will be \$506,000 general fund, and \$1.3 million total funds.

{Tape : 2; Side : A; Approx. Time Counter : 3.1-3.5}

Motion: **SEN. COBB** moved DP 140, \$661,743 TOTAL FUNDS FY02 AND \$1.6 MILLION TOTAL FUND FY03.

{Tape : 2; Side : A; Approx. Time Counter : 3.5-4.2}

Substitute Motion: **SEN. WATERMAN** made a substitute motion TO GO BACK TO THE ORIGINAL EXPANSION IN THE RACICOT BUDGET WHICH WOULD ADD AN ADDITIONAL 25 PEOPLE SERVED.

CHAIRMAN LEWIS called a roll call vote on this motion.

{Tape : 2; Side : A; Approx. Time Counter : 4.2-4.7}

Vote: Motion failed 2-4 with Jayne and Waterman voting aye.

{Tape : 2; Side : A; Approx. Time Counter : 4.7-5.2}

CHAIRMAN LEWIS called a roll call on **SEN. COBB's** original motion.

Vote: Motion carried 6-0.

{Tape : 2; Side : A; Approx. Time Counter : 5.2-10.9}

Motion: **SEN. COBB** moved DP 142, INTERGOVERNMENTAL TRANSFERS.

Discussion: **Mr. Hanshew** said that they are working on the numbers and are not quite prepared. It was agreed to wait on this issue. **Ms. Steinbeck** explained that when the Committee takes action on the intergovernmental transfers it will be adding two items to HB 2. The first item will pay the counties back the \$7 million, assuming that everybody participates at the maximum. The second will redistribute the \$1 million plus federal matching funds. Language has been approved by legislative staff, and the Department is reviewing it. This issue should wait until Friday.

In response to a question from **CHAIRMAN LEWIS** regarding the possibility of a Committee bill, **Ms. Steinbeck** answered that it could be done with language in HB 2, but the Committee will have to add a general fund appropriation to do it. If the Committee wants to go with state special revenue, it will need to direct deposit of the intergovernmental transfer revenue to a state special revenue account in HB 2.

The Committee agreed to wait to vote on DP 142. **SEN. COBB** withdrew his motion.

{Tape : 2; Side : A; Approx. Time Counter : 10.9-18.1}

Motion/Vote: **SEN. COBB** moved DP 147, FEDERAL SPENDING AUTHORITY.

Motion carried unanimously.

PRESENT LAW ADJUSTMENTS VETERANS SERVICES:

Motion: **REP. CLARK** moved TO ADOPT THE BASE LEVEL OF FUNDING PLUS STATEWIDE PRESENT LAW ADJUSTMENTS AND ADDED VACANCY SAVINGS IN PROGRAM 22 - VETERANS SERVICES.

Discussion: **REP. JAYNE** asked why it had changed from \$48,000 to \$12,000. **Mr. Hanshew** responded that the Department negotiated an agreement with the Veterans' Administration to open a pharmacy on site. Because the VA is there, medications can be purchased at less expense to the Department. The reduction reflects the savings to drug costs in having that on-site pharmacy. **SEN. WATERMAN** asked if it was possible to use the veterans' pharmacies for purchase of drugs for other veterans in other programs. **Mr. Hanshew** said that he would look into it; there was a substantial savings in using the VA.

{Tape : 2; Side : A; Approx. Time Counter : 18.1-18.4}

Vote: Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 18.4}

Motion/Vote: SEN. COBB moved DP 24, MONTANA VETERANS' HOME OPERATING EXPENSE ADJUSTMENTS. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 18.9}

DP 25 deals with the Montana Veterans' Home special care unit, which has now been authorized by Congress. The Department will be able to draw down the 65% as construction costs are incurred.

Ms. Steinbeck explained that the present law adjustment annualizes the cost and adds the staff necessary to staff the special care unit. It should be fully up and running in FY03.

{Tape : 2; Side : A; Approx. Time Counter : 21.2}

Vote: Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 21.8}

DP 116 is funding for a van. Half of this will be paid for by a donation from the Thrift Store at Fort Harrison, which will offset the cigarette tax.

{Tape : 2; Side : A; Approx. Time Counter : 22.4}

Motion: SEN. COBB moved DP 116, EQUIPMENT FOR THE MONTANA VETERANS' HOME. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 23.9}

Motion/Vote: SEN. COBB moved DP 141, EASTERN MONTANA VETERANS' HOME EQUIPMENT. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 24.9}

Ms. Steinbeck explained that when the budget was put together, the amount of funding for the Eastern Montana Veterans' Home was not known. It has been determined that an increase of \$197,934 is needed each year of the biennium.

{Tape : 2; Side : A; Approx. Time Counter : 25.1}

Motion/Vote: REP. LEWIS moved TO INCREASE FEDERAL MONEY TO OPERATE EMVH AT \$197,934 PER YEAR OF THE BIENNIUM. Motion carried unanimously.

PRESENT LAW ADJUSTMENTS - AGING SERVICES

{Tape : 2; Side : A; Approx. Time Counter : 26.6-26.8}

Motion/Vote: SEN. KEENAN moved TO ADOPT THE BASE LEVEL OF FUNDING PLUS STATEWIDE PRESENT LAW ADJUSTMENTS AND ADDED VACANCY SAVINGS IN PROGRAM 22 - AGING SERVICES. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 26.8-28.7}

Motion: SEN. COBB moved TO ADOPT DP 35, AGING PLA: PROVIDER RATE AND DIRECT CARE INCREASES.

Discussion: REP. JAYNE asked where meals provided for seniors would be in the decision packages. Mr. Hanshew responded that it would be in funding for the aging programs.

{Tape : 2; Side : A; Approx. Time Counter : 28.7}

Vote: Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 30.5}

Motion/Vote: SEN. COBB moved TO ADOPT DP 81, STATE SUPPLEMENTAL CASELOAD INCREASE. Motion carried unanimously.

NEW PROPOSALS - AGING SERVICES:

{Tape : 4; Side : A; Approx. Time Counter : 30.5 - 38.5}

Ms. Steinbeck went over NP 115, the revised proposal for Adult Protective Services. The Adult Protective Services staff is reduced ongoing from 4 to 2 workers the first year of the biennium, and from 6.5 to 4 in the second year of the biennium. There is a proposal to contract guardianship services instead of having state employees provide that service. The lien and estate recovery funds are used for training, bonuses, or things that are staff related. The proposal uses \$163,000 each year from the lien and estate recovery revenue and an education piece for personal care facility administrators/managers budgeted in Quality Assurance - \$20,000 in FY02 and \$10,000 in FY03.

The issue regarding the use of lien and estate recovery funds questions the appropriateness of using a state special revenue because it would otherwise be budgeted from general fund.

{Tape : 2; Side : A; Approx. Time Counter : 38.5}

SEN. KEENAN asked what the prevention piece of this is. Mr. Hanshew explained that it was the prevention of elder abuse. Instead of using FTE, the Department would like to have organizations throughout the state similar to the Elder Abuse Prevention Chapter in Billings.

{Tape : 2; Side : A; Approx. Time Counter : 43.5}

SEN. WATERMAN asked for clarification of the LFD on this issue.

Ms. Steinbeck said that the recovery funds go into the general fund until appropriated by the Legislature. There is no account that the funds are deposited in. They are appropriated out of state special revenue, but were always one time expenditures that were appropriated out of state special revenue funds related specifically to improvements in services by the people who later

had liens filed against their estates for receiving the long-term care services.

{Tape : 2; Side : A; Approx. Time Counter : 45.6-51.5}

Mr. Hanshew explained that the \$600,000 is not all lien and estate money, but includes the federal share. It is \$600,000 total funds, of which lien and estate is apportioned at the match rate. The contractor that recovered the money takes its 20%, which was traditionally budgeted to offset nursing home expenditures. This has caused a lot of accounting problems, which is one reason the Budget Office allowed all of the money to be spent here.

{Tape : 2; Side : B; Approx. Time Counter : 0.1}

SEN. WATERMAN explained the history and purpose of the lien and estate recovery program.

{Tape : 2; Side : B; Approx. Time Counter : 1.4}

Motion/Vote: **SEN. WATERMAN** moved TO ADOPT THE REVISED DP 115.

Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 2.6}

Ms. Steinbeck went over the LFD issue regarding an expansion of federal funds and whether rate increases should be funded out of federal funds or out of the general fund. The other issue is whether the present law adjustment for the 2003 biennium provider rate increases can be funded out of the federal grant increase as well.

Mr. Hanshew reported that the family care giver portion of the rate increase is \$564,000. Other parts of that which cannot be used for rate increases are the: \$37,500 Farmer's Market Grant; \$31,000 Medicare Plus Choice Grant; \$50,000 Fire Assistance Grant. The increase in the Title XXX Grant, which is equivalent to the rate increase money, is \$112,000 out of the \$806,440 per year.

Ms. Steinbeck commented that if the Older American's Grant is used for a provider rate increase, it cannot be used for an increase in meals provided to the elderly. **Mr. Hanshew** remarked that this is where reductions had to be made. This has been cut once and is no longer a 1.5% increase, but is now a 1% increase.

Motion: **SEN. WATERMAN** moved TO ADOPT DP 129, PROVIDER RATE INCREASES.

Discussion: **REP. JAYNE** asked where she would get more money for meals for senior citizens and what amount she would need to do this. **Mr. Hanshew** said that this is where the money would come

from, but that providers are allowed considerable flexibility in where the services need to be provided. The meals cost \$3.50, the average donation is \$1.20, so the state and federal share would be \$2.30 which is paid out of contract funds from the Department. If the Committee gave the Department an amount of money equivalent to a certain number of meals, the Department would work with providers to ensure that it went into nutrition and increased the number of available meals. He does not have the unmet need numbers for this service.

CHAIRMAN LEWIS summarized that if DP 129 passed, then on DP 222 language could be attached that said that any money not obligated would be used to add on to the number of home delivered meals.

REP. JAYNE asked if it was legal under the Older Americans Act.

Mr. Hanshew said that he believes it is, but if it is not, there is general fund associated with the increase that could be taken in an equal amount that would go to meals. The Department would like some language that said if there was no other need for meals, the money could be used elsewhere.

{Tape : 2; Side : B; Approx. Time Counter :18.}

CHAIRMAN LEWIS asked for a roll call vote.

Vote: Motion passed 5-1 with Cobb voting no.

{Tape : 2; Side : B; Approx. Time Counter : 20.4}

Motion/Vote: SEN. COBB moved TO ADOPT DP 222 AND UNEXPENDED FUNDS FOR MEALS WITH LANGUAGE TO BE WORKED OUT BY LFD STAFF. Motion carried unanimously.

PRESENT LAW ADJUSTMENTS - DIVISION ADMINISTRATION:

{Tape : 2; Side : B; Approx. Time Counter : 21.9}

Motion/Vote: SEN. COBB moved TO ADOPT THE BASE LEVEL OF FUNDING PLUS STATEWIDE PRESENT LAW ADJUSTMENTS AND VACANCY SAVINGS IN PROGRAM 22 - DIVISION ADMINISTRATION. Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 22.2}

Motion/Vote: SEN. COBB moved TO ADOPT DP 146, MEDICAID FIELD STAFF OFFICE RENT COSTS. Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 23}

PRESENT LAW ADJUSTMENTS - ADULT PROTECTIVE SERVICES:

Motion/Vote: SEN. WATERMAN moved TO ADOPT THE BASE LEVEL OF FUNDING PLUS STATEWIDE PRESENT LAW ADJUSTMENTS AND VACANCY SAVINGS IN PROGRAM 22 - ADULT PROTECTIVE SERVICES. Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 23.8}

In the 1999 session, the Legislature appropriated \$100,000 general fund each year of the biennium for services for persons determined to be at risk of abuse or neglect. The LFD issue is that the base budget is about \$26,000 of the \$100,000. This decision package annualizes that base amount up to \$100,000. **Ms. Steinbeck** received numbers that show total annualized expenditures in the general fund would be about \$82,000 or \$15,000 to \$18,000 general fund per year of the biennium less than the amount included in the decision package.

Motion: SEN. WATERMAN moved DP 77, ADULT PROTECTIVE SERVICES EMERGENCY SUPPORT PLA.

Discussion: CHAIRMAN LEWIS asked why they still are not spending at the higher rate. Mr. Hanshew remarked that \$50,000 has been obligated or spent at this point of the year. The money is used for crisis situations and to buy services instead of having social workers do the work. Providers and communities tend to save the money up in case they will need it later. It may be reverted if it is not used.

CHAIRMAN LEWIS asked if \$15,000 a year were taken out, would there still be the same amount as last year? **Ms. Steinbeck** said that there would be \$60,000 more than was spent last year.

{Tape : 2; Side : B; Approx. Time Counter : 31.3}

Vote: Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 31.5}

Motion: SEN. COBB moved DP 143, RENT INCREASE FOR APS FIELD OFFICES.

Discussion: Norm Rostocki, Centralized Services Bureau Chief, Senior and Long-Term Care Services Division, explained that the program was transferred to this Division from another. The rent in each region of the transferred program is in excess of the amount that was transferred. Right now there is a deficit of \$92,000 in rent. CHAIRMAN LEWIS remarked that it would be difficult for him to vote yes knowing that the money was spent within the base budget last year.

{Tape : 2; Side : B; Approx. Time Counter : 36.5}

CHAIRMAN LEWIS called for a roll call vote.

REP. CLARK asked where the money was coming from to pay this rent; it has to come out of the budget somewhere. CHAIRMAN LEWIS stated that the money was appropriated to the Department last session so the Department would just have to find it.

{Tape : 2; Side : B; Approx. Time Counter : 38.2}

Vote: Motion failed 3-3 with Clark, Keenan, and Lewis voting no.

{Tape : 2; Side : B; Approx. Time Counter : 40.5}

Motion/Vote: SEN. COBB moved TO ADOPT DP 145 LEASED CARS FOR APS FIELD STAFF. Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 41.5}

Motion: SEN. COBB moved TO APPROPRIATE \$24,000 EACH YEAR TO FUND THE CERTIFICATE OF NEED.

Ms. Steinbeck stated that the Committee had already authorized \$23,000 each year of the biennium for Certificate of Need. She said either the rent or nursing home caseload reduction would fund it. **SEN. COBB** withdrew his motion.

SEN. WATERMAN asked **Mr. Hanshew** to write up some language that would require the Department to list on its website staffing levels in nursing homes so that the public would know what to expect at a particular nursing home. **CHAIRMAN LEWIS** asked if it was proprietary information and would there be a legal issue. **Mr. Hanshew** said that he did not believe that it would be since the information is already being collected from nursing home facilities. **SEN. KEENAN** questioned the need or benefit of this sort of information.

{Tape : 3; Side : A; Approx. Time Counter : .3-2.6}

In further discussion, it was suggested that certain caveats would be in place so that the state would not be liable should staffing levels not be as advertised.

DISCUSSION AND EXECUTIVE ACTION - HUMAN AND COMMUNITY SERVICES

{Tape : 3; Side : A; Approx. Time Counter : 3.2}

Hank Hudson, Administrator of Human and Community Services, presented an overview of FAIM Phase II R, the revised FAIM program **EXHIBIT(jhh37a04)**. He went over the Committee priorities. About \$10 million of this proposal was in the original FAIM Phase II, and \$14.5 million is the amount for FAIM Phase II R. All of the other programs are available to all Montanans, but there is \$3.5 and \$4.2 million that would be funneled to tribal governments. The plan needs a biennial appropriation in order for there to be flexibility in the program.

{Tape : 3; Side : A; Approx. Time Counter : 10.6-12.7}

Mr. Hudson went into a more detailed review of the new plan. In order to pass the Kids Light program, SB 77 needs to be passed

quickly and amended to create a retroactive non-assistance program back to January 1. Plan amendments would be needed for the TANF plan to create the mental health state funded program. The amount is \$647,952 FY02 and \$671,928 FY03 general fund maintenance of effort (MOE) money. The figures were arrived at through discussions with Addictive and Mental Disabilities Division (AMDD). This also includes \$554,000 for the current year.

{Tape : 3; Side : A; Approx. Time Counter : 12.7-20.4}

Mr. Hudson identified those proposals that were not in the original FAIM Phase II for **CHAIRMAN LEWIS**. **Mr. Hudson** explained that he took the Committee instruction to mean that this money needed to be protected from the federal government before the end of the grant. To do that, the money must be obligated. When the money is obligated, those to whom it has been obligated have another year to spend it. This addresses the sustainability of the program. **CHAIRMAN LEWIS** commented that there is a bill going through the Senate to outlaw a accruals.

{Tape : 3; Side : A; Approx. Time Counter : 20.4-21.5}

Mike Billings, Administrator of Operations and Technology, stated that if a accruals are outlawed the Department will not be able to do the obligations presented here. **SEN. KEENAN** said that there will be an amendment in House Appropriations to SB 179.

{Tape : 3; Side : A; Approx. Time Counter : 21.5-27.6}

Mr. Hudson continued with his identification of those proposals that were not part of the original FAIM program.

{Tape : 3; Side : A; Approx. Time Counter : 27.6-30.2}

In discussion over the issue of using some of this funding for faith-based services, **Mr. Hudson** said that the Department would be holding discussions with organizations to determine what services they would like to provide and how it could be arranged. **CHAIRMAN LEWIS** brought up the issue of the clear language in the state constitution which may prohibit this. **SEN. WATERMAN** and **Mr. Hudson** mentioned that there are services that the state contracts with religious organizations already.

{Tape : 3; Side : A; Approx. Time Counter : 30.2}

Mr. Hudson expressed concerns that the funds for the housing trust fund may not be as readily available to tribal participants as it is to those that are off the reservations. The Department cannot move \$3.5 million for the trust fund; it has to be drawn down for actual expenditures. **SEN. WATERMAN** suggested that the Department look into the wording of the trust fund. It is an expendable trust, not a trust fund. Even if the Department were

not to use the actual housing trust fund for this, the language would give them guidance.

{Tape : 3; Side : A; Approx. Time Counter : 33-35.6}

SEN. KEENAN asked if the federal government was going to let the TANF reserves be put in the housing trust fund, **Mr. Hudson** said that it was clear that it could not be done. The money has to be drawn down for specific eligible activity and as loans are paid back, the money and any interest can continue to be used for TANF purposes.

{Tape : 3; Side : A; Approx. Time Counter : 35.6-37.9}

Pat Gervais, LFD, said that in her review of the bills dealing with the housing trust and the statute that governs the housing trust, it does allow for construction and other items that are clearly not allowed under TANF regulations. Additional statutory amendments would need to be made to those statutes in order to facilitate using the funds in a manner compatible with TANF regulations. Additionally, TANF regulations state that the interest must come back into the TANF program as program income.

SEN. WATERMAN said that the solution is to do it outside of the trust fund with a program specifically targeted to the population that meets the TANF rules. **CHAIRMAN LEWIS** asked **Mr. Hudson** to look into getting help from the Housing Bureau to do this.

{Tape : 3; Side : A; Approx. Time Counter : 37.9}

Mr. Hudson continued with his review of the programs offered in FAIM Phase II R. Money from some of the programs would also be available for tribes. **Mr. Hudson** briefly reviewed the TANF Block Grant Analysis included in Exhibit 4, noting that the Department would have spent all of the TANF reserve by the end of FY03.

{Tape : 3; Side : A; Approx. Time Counter : 49.4-51.5}

{Tape : 3; Side : B; Approx. Time Counter : 0.3-3.1}

Karlene Grossberg, Public Assistance Bureau Chief, explained the Parents As Scholars program developed by the Division. Families eligible for this would have incomes up to 150% of poverty. Those currently receiving cash assistance would continue to have post secondary education as their primary activity, and there would still be a ten-hour work requirement with the time clock ticking. New families coming in that are up to 150% of poverty are those families that have left FAIM in the past two years and are working, but are stuck in low-income jobs. Those families would reduce their work hours to ten hours a week and use work support payments to sustain them while they go back to school; they would have two years of education, but their time clock would not start ticking.

{Tape : 3; Side : B; Approx. Time Counter : 3.1-14.1}

In response to questions from **SEN. WATERMAN**, **Ms. Grossberg** said that if a person went off FAIM to a job, there would need to be a period of time that a person had to be at a job before this kicked in. **Ms. Grossberg** suggested that those who are currently on FAIM cash assistance and in a four-year educational program be grandfathered in. **Mr. Hudson** commented that if people are on assistance and receiving a check the Division is using the old money, and if they leave and use a work support payment, it is new money. There is not an unlimited amount that can be used for this. There was continued discussion over the eligibility, time limitations, limits on enrollment, and calculation of work requirements of this program; and how this would be fine tuned to the best advantage of the goal - getting people off of assistance and working at jobs that will support their families.

{Tape : 3; Side : B; Approx. Time Counter : 14.1-25.8}

Mr. Hudson continued with his overview of the new programs. He went over the Billings Family Drug Court, an intensive year-long approach for people with serious drug problems. Emergency Services for working families was reduced to accommodate this program.

On the final sheet of the overview, **Mr. Hudson** explained how the Division had found part of the match for the Child Care Block Grant. He went over the change in MOE from 77% to 75%. This will require a change in statute to 75%, and the difference can be applied to the Child Care match. The Division has always asked for 77% because the Division never knows whether it will get the money from non-assumed counties in the amount budgeted.

{Tape : 3; Side : B; Approx. Time Counter : 25.8-27}

Ms. Gervais noted that in **Mr. Hudson's** overview there is an indication that because the Fort Belknap Indian community has implemented a tribal TANF plan, the state MOE decreases \$440,000 general fund which was not included in the Executive Budget. **Mr. Hudson** responded that the Department had passed the MOE on to the tribe. If the Tribe does not use it in a way that is allowable for Montana to count as MOE, then the Department cannot count it anyway, so would be short of MOE.

Ms. Gervais commented that it can be counted as MOE, though it does require cooperation between the State and Tribe in order for it to be reported. On the Department's spreadsheet for the planned FY02 and FY03 TANF MOE, it has included the Fort Belknap Tribal Transition MOE, plus \$100,000, a total of \$368,000 in FY02 and \$268,000 in FY03, in planned expenditures of MOE.

{Tape : 3; Side : B; Approx. Time Counter : 27-29.7}

Mr. Hudson responded that the Department does plan to count it as MOE. The Department will be working closely with the Tribe to understand how it will be used and encourage the Tribe to use it for countable activities. The Department has no authority over how it is spent. **Ms. Gervais** stated that the MOE requirement does reduce \$440,000, and although the Department does have the \$368,000 FY02 and \$268,000 FY03 that it is required to pass on to the Tribe, it would not need to maintain the additional \$440,000 because it could use part of the \$15.2 that it must spend and any other expenditures could be backfilled with TANF funds. **Ms. Gervais** further pointed out that in the base budget the Department did fulfill its MOE requirement, and there was not a decision package in the Executive Budget to reduce general fund in this Division for the reduction in MOE.

{Tape : 3; Side : B; Approx. Time Counter : 29.7-32.7}

SEN. KEENAN asked whether the section of FAIM Phase II R dealing with the increase in benefits would be building a base or would it all be one time only. **Mr. Hudson** responded that the caretaker relative costs are ongoing, and can be accommodated in future with the grant. The elimination of the CSP would be ongoing, and is part of the plan beyond 2003. The sanction costs will hopefully disappear by the end of the next biennium. The items in FY03 that were part of the original FAIM Phase II proposal will probably be ongoing costs.

{Tape : 3; Side : B; Approx. Time Counter : 33-35.7}

SEN. COBB expressed objections to the faith-based services, he suggested that he would like to take that \$664,000 and give \$700,000 more to Tribal Projects. This would give the Tribes their \$3 million plus \$1.1 million. He does not like the idea of the Head Start Child Care proposal, but would not object to it, if faith-based services money goes to the Tribes.

{Tape : 3; Side : B; Approx. Time Counter : 35.7-43}

In further discussion, **REP. JAYNE** agreed with **SEN. COBB**. She asked if the Tribal NEW was an ongoing program not using the unspent TANF funds. **Mr. Hudson** responded that the Tribal NEW is considered ongoing.

{Tape : 3; Side : B; Approx. Time Counter : 43.6-45.6}

CHAIRMAN LEWIS mentioned that the Department had put the reserve TANF funds into FY02 as requested by the Committee so that it would be obligated and not lost to the federal government. The Committee discussed TANF bills that are in the works in the Legislature, and **CHAIRMAN LEWIS** expressed his belief that all of the TANF bills that have made it through have come to Appropriations.

{Tape : 3; Side : B; Approx. Time Counter : 45.6}

Last session, the Department amended HB 2 to increase from \$95,000 to \$195,000 the commitment to adult basic through OPI. It is in the base budget and continues to be part of the plan.

SEN. COBB said that he had a note that said it was cut. **Mr. Hudson** explained that the Department shifted the funds straight over to OPI.

{Tape : 3; Side : B; Approx. Time Counter : 49.4-51.4}

REP. CLARK asked for clarification on the faith-based Services.

Mr. Hudson responded that currently within the Department of Public Health and Human Services there are arrangements or contractual relationships with certain faith-based organizations, for example, those that provide emergency shelter services.

{Tape : 4; Side : A; Approx. Time Counter : 0.4-5}

SEN. WATERMAN asked **Mr. Hudson** to go over any pitfalls that it sees in doing things this way as opposed to how it was originally done. **Mr. Hudson** commented that the division's original proposal spent all of the money by FY03, and then went over the pitfalls he sees. There is an expectation that programs can be expanded and people will come in to use them, but sometimes those programs are not what people need, which is why flexibility is important. Another problem is the state's ability to work effectively with the Tribes to make the money available in a flexible manner, but retain the requirements of law. It is doable, but will create a level of activity and uncertainty.

{Tape : 4; Side : A; Approx. Time Counter : 5-7.1}

SEN. KEENAN asked if some of this money could or would be used to train CNA's for nursing homes in Browning and Crow Agency. **Mr. Hudson** said that they have done so in the past, it is a good idea, and the Department will do it again. **SEN. WATERMAN** commented that training should be made available for child care workers as well. **Mr. Hudson** mentioned the good work that had been done by the Training Consortium.

{Tape : 4; Side : A; Approx. Time Counter : 7.4-9.5}

CHAIRMAN LEWIS mentioned HB 353 and asked **Mr. Hudson** for comments. **Mr. Hudson** explained that the start-up costs were for things like toasters and bringing workers in to get them started before the federal money flows to pay them. The money that the Department would have to spend would be on TANF eligible people, and the school breakfast program has different eligibility. It is notable in its modest request for TANF funds.

DISCUSSION AND EXECUTIVE ACTION - HUMAN AND COMMUNITY SERVICES

{Tape : 4; Side : A; Approx. Time Counter : 9.5-13.1}

Motion: SEN. COBB moved TO ADOPT FAIM PHASE II R.

Discussion: SEN. WATERMAN said that she wants flexibility. SEN. COBB remarked that he wants to line item the tribal money. SEN. WATERMAN commented that the Committee is moving pretty quickly on a major policy decision. CHAIRMAN LEWIS remarked that he feels comfortable voting on the issues, but if others want to wait, he would. A roll call vote was requested.

{Tape : 4; Side : A; Approx. Time Counter : 13.1-13.4}

Vote: Motion carried 6-0.

{Tape : 4; Side : A; Approx. Time Counter : 13.4-14}

Motion/Vote: SEN. COBB moved TO AMEND THE PROPOSAL TO STRIKE FAITH-BASED SERVICES AND MOVE THAT FUNDING TO TRIBAL PROJECTS. Motion carried 4-2 with Clark and Waterman voting no.

{Tape : 4; Side : A; Approx. Time Counter : 14-15.8}

Motion/Vote: SEN. COBB moved TO INCLUDE TRIBAL MENTAL HEALTH SERVICES IN TRIBAL PROJECTS. Motion carried unanimously.

{Tape : 4; Side : A; Approx. Time Counter : 15.8-17.3}

Motion: SEN. COBB moved TO LINE ITEM THE APPROVED TRIBAL PROJECTS.

Discussion: Mr. Hudson remarked that the only danger in the line item of this money was that if they were unable to spend the money then it will become full TANF money past the re-authorization date. SEN. COBB wants it done now, if it cannot get done, then language can be included later.

{Tape : 4; Side : A; Approx. Time Counter : 17.3-20.8}

Vote: Motion carried unanimously.

SEN. COBB then asked since the Salish-Kootenai are on their own, can they apply for this? Mr. Hudson said that when a Tribe make its own TANF program that is all the TANF they get.

{Tape : 4; Side : A; Approx. Time Counter : 20.8-24.2}

Ms. Gervais requested clarification as to whether SEN. COBB intended his item to be restricted to only the Tribal Projects, or just a line item. SEN. COBB responded that he had just moved line item, until he figures what else he wants to do. Director Gray remarked that the legislative intent was clear to the Department.

{Tape : 4; Side : A; Approx. Time Counter : 24.2-28.8}

Ms. Gervais asked for clarification on the motion and whether the child care match and reduction in MOE from 77% to 75% which requires a statutory change were included in the motion.

CHAIRMAN LEWIS said yes.

SEN. WATERMAN asked if the motion on FAIM Phase II R included the spending authority to draw down the additional child care money and was told that it did. **SEN. COBB** said that they needed a motion for a committee bill to drop it from 77% to 75%. **Ms. Gervais** stated that they need to change the statute which sets MOE at 77% and reduce it to 75%.

Motion: **SEN. COBB** moved **TO DRAFT A COMMITTEE BILL THAT WILL CHANGE STATUTE AND REDUCE MAINTENANCE OF EFFORT FROM 77% TO 75%.**

Discussion: **REP. JAYNE** asked what this would do and was told that it would take the Department back to the 75% required match, freeing money for the draw down of the child care funds. This 77% has been used as a cushion.

{Tape : 4; Side : A; Approx. Time Counter : 28.8}

Vote: Motion **carried unanimously.**

{Tape : 4; Side : A; Approx. Time Counter : 30}

Ms. Steinbeck requested that the Department provide her with more information on budget requests for Mental Health and Chemical Dependency.

ADJOURNMENT

Adjournment: 12:00 P.M.

REP. DAVE LEWIS, Chairman

SYDNEY TABER, Secretary

DL/ST

EXHIBIT (jhh37aad)